

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JOHNNY LEN KELLOGG, #120551,

Plaintiff,

v.

MAXEY CERLIANO,

Defendant.

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Case No. 6:20-cv-151-JDK-JDL

**ORDER ADOPTING THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

Plaintiff Johnny Len Kellogg, proceeding pro se, filed this civil rights lawsuit pursuant to 42 U.S.C. § 1983, alleging violations of his constitutional rights stemming from lack of access to a law library. The case was referred to United States Magistrate Judge John D. Love for findings of fact, conclusions of law, and recommendations for disposition.


On January 5, 2021, Judge Love issued a Report recommending that Plaintiff's civil rights action be dismissed for failure to state a claim upon which relief can be granted. Docket No. 6. As the Report explains, Plaintiff's right of access to the courts was not infringed because he is represented by counsel. A copy of this Report was sent to Plaintiff.

This Court reviews the findings and conclusions of the Magistrate Judge de novo only if a party objects within fourteen days of service of the Report and Recommendation. 28 U.S.C. § 636(b)(1). In conducting a de novo review, the Court examines the entire record and makes an independent assessment under the law.

Douglass v. United Servs. Auto. Ass'n, 79 F.3d 1415, 1430 (5th Cir. 1996) (en banc), *superseded on other grounds by statute*, 28 U.S.C. § 636(b)(1) (extending the time to file objections from ten to fourteen days). Here, Plaintiff did not object in the prescribed period. The Court therefore reviews the Magistrate Judge's findings for clear error or abuse of discretion and reviews the legal conclusions to determine whether they are contrary to law. *See United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir. 1989), *cert. denied*, 492 U.S. 918 (1989) (holding that, if no objections to a Magistrate Judge's Report are filed, the standard of review is "clearly erroneous, abuse of discretion and contrary to law").

Having reviewed the Magistrate Judge's Report and the record in this case, the Court finds no clear error or abuse of discretion and no conclusions contrary to law. Accordingly, the Court hereby **ADOPTS** the Report and Recommendation of the United States Magistrate Judge (Docket No. 6) as the findings of this Court. It is therefore **ORDERED** that this case is **DISMISSED WITH PREJUDICE** for failure to state a claim upon which relief can be granted.

So **ORDERED** and **SIGNED** this 10th day of February, 2021.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE